

OUR FILE NO.: 090.155440
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

Plaintiff,

- against -

10CV6005 (RWS)

**DECLARATION OF
PAUL F. CALLAN**

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO, Tax Id. 873220, Individually and in his Official Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH GERALD NELSON, Tax Id. 912370, Individually and in his Official Capacity, DEPUTY INSPECTOR STEVEN MAURIELLO, Tax Id. 895117, Individually and in his Official Capacity, CAPTAIN THEODORE LAUTERBORN, Tax Id. 897840, Individually and in his Official Capacity, LIEUTENANT JOSEPH GOUGH, Tax Id. 894025, Individually and in his Official Capacity, SERGEANT FREDERICK SAWYER, Shield No. 2576, Individually and in his Official Capacity, SERGEANT KURT DUNCAN, Shield No. 2483, Individually and in his Official Capacity, LIEUTENANT CHRISTOPHER BROSCART, Tax Id. 915354, Individually and in his Official Capacity, LIEUTENANT TIMOTHY CAUGHEY, Tax Id. 885374, Individually and in his Official Capacity, SERGEANT SHANTEL JAMES, Shield No. 3004, Individually and in his Official Capacity and CAPTAIN TIMOTHY TRAINER Tax Id. 899922, Individually and in Their Official Capacity and P.O.'s "JOHN DOE" #1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown) (collectively referred to as "NYPD defendants"), JAMAICA HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, Individually and in his Official Capacity, DR. LILIAN ALDANA-BERNIER, Individually and in her Official Capacity and JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEE'S "JOHN DOE" # 1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown),

Defendants.

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PAUL F. CALLAN, ESQ., pursuant to 28 USC § 1746, declares under penalty of perjury that the following is true, based upon his personal knowledge and review of the file in this action:

1.I am of counsel to the law firm of Callan, Koster, Brady, Brennan & Nagler, LLP, attorneys for defendant DR. LILIAN ALDANA-BERNIER, in the above-entitled action. I am fully familiar with the facts and circumstances of this case based on a review of the file materials maintained in this office.

2.This declaration is submitted in support of the motion of defendant DR. LILIAN ALDANA-BERNIER's (hereinafter Aldana-Bernier) for summary judgment to dismiss plaintiff's claims for relief under 42. U.S.C. §1983, to dismiss his claim for intentional infliction of emotional distress under New York State law, to remand the surviving state law claims to state court, and for such other and further relief as this Court may deem just and proper.

3.Attached as Exhibit "A" is a true and accurate copy of plaintiff Adrian Schoolcraft's Second Amended Complaint, dated September 25, 2012.

4.Attached as Exhibit "B" is a true and accurate copy of defendant Lilian Aldana-Bernier, M.D.'s, Answer to plaintiff's Second Amended Complaint, dated October 22, 2012.

5.Attached as Exhibit "C" is a true and accurate copy of Dr. Aldana-Bernier's affidavit dated December 19, 2014.

6.Attached as Exhibit "D" is a true and accurate copy of plaintiff's medical records from Jamaica Hospital Medical Center with redactions.

7.Attached as Exhibit "E" is a true and accurate copy of the expert report submitted by plaintiff's expert, Dr. Roy Lubit dated August 11, 2014.

8.Attached as Exhibit "F" is a true and accurate copy of Judge Sweet's Opinion and Order dated January 23, 2015.

9.Attached as Exhibit "G" is a true and accurate copy of plaintiff's Third Amended Complaint, dated January 22, 2014.

10. Dr. Aldana-Bernier previously moved for summary judgment on December 22, 2014, seeking relief similar to that sought herein. However, prior to the summary judgment motion being fully briefed, Judge Sweet partially granted plaintiff's motion to amend his complaint for a third time and ordered that the parties could serve dispositive motions to dismiss the Third Amended Complaint. Further, no decision was ever rendered as to Dr. Aldana-Bernier's prior motion for summary judgment.

WHEREFORE, it is respectfully requested that the instant Motion be granted in its entirety.

Dated: New York, New York
January 30, 2015

/s/ Paul F. Callan
PAUL F. CALLAN

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